

REMARKS

1. Claims 1-59 are pending in this application. Reconsideration and further prosecution of the above-identified application are respectfully requested in view of the amendments and discussion that follows.

Claims 1-59 have been rejected under 35 U.S.C. §103(a) as being obvious over U.S. Pat. No. 6,707,821 to Shaffer et al. in view of U.S. Pat. No. 6,845,105 to Olsson et al. After a careful review of the specification and claims (as amended), it has been concluded that the restrictions are in error and the restrictions are, therefore, traversed.

2. Claims 1-59 have been rejected as being obvious over Shaffer et al. in view of Olsson et al. In response, independent claims 1, 15, 20, 31, 36, 44, 56, 57, 58 and 59 have been further limited to the context of a voice over packet network telephone. Support for a voice over packet network telephone is found throughout the specification and is identified by the reference numbers 24, 30, 35 and 36 in FIG. 2 and 50 in FIG. 3.

Independent claims 1, 15, 20, 31, 36, 44, 56, 57, 58 and 59 have also been further limited to the context where the priority of packet processing is predetermined. The predetermined nature of packet priority is supported by the fact that the user is allowed to select packet priority (see, for example, page 5, lines 19-23).

In contrast, Shaffer et al. shows only a single data processing unit 78 connected to an IP phone 80. In order to overcome this apparent deficiency, the Examiner asserts that

"Computer 80 can support many applications including a 'web-browser, e-mail application, or networked files system application'. Refer to Column 1, lines 57-59. Each of these applications are processed by different systems within the computer 80. Furthermore, this offers motivation to one skilled in the art to include that each of these and other applications may be provided by servers separate from computer 80. Since different applications on the computer are offered, different priorities need to be assigned to each application to determine their order of transmission. Therefore, it would have been obvious . . . to include receiving data packets from a plurality of data processing devices; the motivation being so that a system can support several different types of applications, thereby diversifying the system" (Office Action of 6/30/05, page 3).

The most obvious flaw in the Examiner's logic, however, is that web browsers, e-mail and many networked file system applications are one-at-a-time applications that are operated manually by a user. For example, if a user is using a web browser to view a web site, then that same user could not simultaneously send an e-mail. Similarly, if the user is sending an e-mail, then that same user could not simultaneously access a networked file system application. Since these applications tend to be operated manually by a user, there would be no reason or need to assign a priority to these applications.

With regard to the Examiner's contention about diversification, it is the different applications available on a computer that provide diversification, not any supposed interaction among diverse applications. In this regard, it would be the user that determines priority based upon which application the user selects to use in advance of any other application.

The Examiner admits that Shaffer fails to provide any

teaching regarding the method step of (or apparatus for) "assigning a first priority level to the voice packets, a second priority level to data packets from a first data processing device of the plurality of data processing devices and a third priority level to data packets from a second data processing device of the plurality of data processing devices where the first, second and third priority levels are all different". However, the Examiner goes on to suggest that this element is taught by Olsson et al.

However, rather than providing a teaching regarding voice over packet network telephones, Olsson et al. is merely directed to packet processing within a packet network. In this regard, Olsson et al. explicitly states that "Packets 115, 116, and 117, for example, arrive at network layer 101 with different priorities as may be determined by the contents of, for example, QoS information included with an IP header typically associated with each of the packets 115, 116, and 117 respectively" (Olsson et al., col. 5, lines 56-60).

Since priorities are assigned to packets (instead of data processing devices) and then based only upon the QoS information within the packet header, there is no basis for suggesting that Olsson et al. teaches assigning priorities to data processing devices. This is necessarily true because packet priorities may change based upon QoS.

For example, Newton's Telecom Dictionary (21 Ed) defines QoS as Quality of Service. Newton's further defines Quality of Service as "a measure of the telecommunications - voice, data and/or video - service quality provided to a subscriber. Newton's further states that "In order to deploy real-time applications over IP

networks with an acceptable level of quality, certain bandwidth, latency, and jitter requirements must be guaranteed, and must be met in a fashion that allows multimedia traffic to coexist with traditional data traffic on the same network".

For example, QoS would be determined from packet delays within the packet system. As such, the priority of the Olsson packets would change based upon the loading of the packet system or any of a number of other factors without regard to the data processing device that originated the packet.

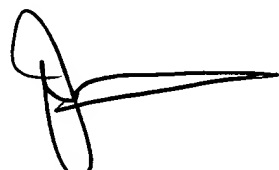
At best, Olsson et al. assigns priority to data packets based upon a QoS requirement. However, since QoS is a system parameter, the use of QoS ultimately causes the Olsson et al. priority to be based upon system loading. Since Olsson assigns priority based upon system loading, the Olsson system would not perform the method step of (or have apparatus for) "assigning . . . a predetermined second priority level to data packets from a first data processing device of the plurality of data processing devices and a third predetermined priority level to data packets from a second data processing device of the plurality of data processing devices".

Since neither Shaffer et al. or Olsson et al. teach or suggest the above features, the combination fails to teach each and every claim limitation. Since the combination fails to teach each and every claim limitation, the rejections are believed to be improper and should be withdrawn.

3. Allowance of claims 1-59, as now presented, is believed to be in order and such action is earnestly

solicited. Should the Examiner be of the opinion that a telephone conference would expedite prosecution of the subject application, he is respectfully requested to telephone applicant's undersigned attorney.

Respectfully submitted,
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